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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-ninth session

SUMMARY RECORD OF THE 10th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 12 August 1997, at 10 a.m.

Chairman: Mr. BENGOA

later: Mr. PARK

later: Mr. BENGOA

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The meeting was called to order at 10.20 a.m.

COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO THE ELIMINATION OF RACIAL DISCRIMINATION

(a) SITUATION OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

(b) XENOPHOBIA

(agenda item 3) (continued) (E/CN.4/Sub.2/1997/6 and 31; E/CN.4/Sub.2/1997/NGO/3 and 4)

1. Mr. BOUTKEVITCH said he was torn between optimism and pessimism when reflecting on the situation of migrant workers and their families. The optimist told him not to panic: in 1998 the Sub-Commission would celebrate the twentieth anniversary of the inclusion of the item on its agenda. On the other hand, the pessimist in him told him that the situation of migrant workers was actually worsening. The optimist told him that more international instruments had been adopted on that question than on any other human rights issue. But the pessimist insisted that those conventions had no effect. Article 87 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families provided that the Convention would enter into force on the first day of the month following a period of three months after the date of the deposit of the twentieth instrument of ratification or accession. Yet on 31 December 1996 only nine States had ratified it. At that rate the Convention would not enter into force for another 20 years. The optimist in him also pointed to the Sub-Commission's involvement in the topic; but the pessimist noted that even the Sub-Commission itself was unable to decide what aspects of the topic it should focus on, so that it had been shifted from one agenda item to another. Meanwhile, the situation of migrant workers was changing, and not always for the better.

2. After the fall of the Berlin wall, the collapse of the Soviet Union and Yugoslavia, a series of ethnic conflicts and civil wars worldwide, and the opening up of borders in Eastern Europe, only a handful of States had succeeded in controlling migratory flows in the framework of internationally recognized rules. States were often confronted with such a variety of migrants that they had difficulty in accommodating themselves to international standards. In Eastern Europe there were both internal, external and transit migrant groups, who did not always correspond to existing international classifications, so that the result was an increase in discrimination under all the criteria prohibited by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. In the States of the former Soviet Union, where once it had been difficult to travel abroad, waves of migration overwhelmed the authorities' efforts to regulate the process. To those waves must be added a parallel flow of refugees from conflicts in the former Soviet Union and Yugoslavia, the effects of which were felt not just in Europe but in the United States of America, Canada and in other continents. States had tightened their regulation of immigration in response to those flows, but the result had merely been an increase in illegal immigration.

3. The reaction of the public and the media in the host States - especially former socialist States where the phenomenon had not previously arisen - had been to see the arrival of migrants as a threat. It had almost never been depicted as a humanitarian problem. Reactions to migrant workers had ranged from tolerance, through xenophobia, to outright hostility.

4. The States of the former Soviet Union had also had to contend with the problem of illegal transit migrants from Africa, Asia and the Middle East exploiting the liberalization of borders as a way of reaching the West. According to the media, 18.2 million foreigners had entered Ukraine in 1995, only 17.4 million of whom had subsequently left. Only half the 80,000 who had remained had registered with the authorities. In Russia there were about half a million illegal immigrants who, having been excluded from society, contributed to a rise in crime, thereby provoking further hostility and xenophobia, in a vicious cycle. However, the main goal of those migrants was the West, and there was a burgeoning trade in illegal transit enterprises. A Pakistan-Ukrainian joint venture specialized in forged transit documents. An Israeli firm in Ukraine specialized in smuggling groups of immigrants under the guise of students: the number of such groups had risen from 5 in 1992 to 91 in the first half of 1995. Furthermore, criminal groups were less concerned about the welfare of human beings than of other commodities they handled: a refrigerated lorry stopped at the Ukrainian border with Slovakia in 1996 had been found to contain 40 Chinese immigrants, 10 of whom had had to be treated in intensive care.

5. He could give many other examples, but nothing was to be gained from so doing. The fact was that migrant workers were now worse off than any other social group - less unified, less active, and more intimidated. That was hardly surprising in view of the fact that article 13 of the aforementioned Convention accorded them the right to freedom of expression, but then went on to list no fewer than 13 limitations on that right. Could any other article in any other Convention be cited that imposed so many limitations on a vitally important right? Would any State on Earth prove incapable of repressing its migrant workers on the strength of that article? The Sub-Commission must set up a sessional working group on the subject of migrant workers, and there must be more active discussion of the subject within the Sub-Commission itself.

6. Mr. GUISSÉ said he wished to move away from the rather narrow confines of agenda item 3 as worded in the agenda of the current session, and to recall certain principles that had been referred to in the past in the context of racism and racial discrimination. Following the studies conducted by the United Nations Educational, Cultural and Scientific Organization (UNESCO), the concept of race had become broader, encompassing criteria that had not previously been taken into consideration. The terms "racism" and "racial discrimination" thus covered a variety of situations. Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination enumerated, inter alia, colour, descent and ethnic origin as criteria, exclusion on the basis of which constituted racial discrimination. The important point, however, was that millions of persons were systematically and totally excluded, and that in some countries such exclusion had been elevated to the status of a system of government.

7. The Working Group on Contemporary Forms of Slavery dealt competently with a phenomenon that wrought havoc among vulnerable groups, including indigenous populations, minorities and workers. Those new forms of slavery were merely an intensification of traditional practices of slavery. In some countries slavery was a contemporary reality, practised with the full knowledge of the public authorities and international institutions. An informant who, fearing for his safety, wished to remain anonymous, had informed him that by virtue of the social rules of his country he was a slave, and that consequently his wife and children were also slaves belonging to the same master. He was thus unable to give his daughter in marriage without the consent of his master, who would certainly make that consent conditional on the daughter's offspring also becoming his slaves. Such a degrading system was worse than apartheid.

8. In States that were a buffer zone between two civilizations, those in power generally excluded other groups from power by means of de jure and de facto discriminatory practices. The victims of such a system of government knew neither the rule of law nor respect for human rights, dignity and freedoms. When they attained crisis proportions, discriminatory practices constituted a negation of all human rights and fundamental freedoms. Like underdevelopment or the absence of peace, slavery was a framework for the violation or disregard of human rights. The duty of solidarity of all nations and peoples should make it possible to eradicate that evil at the dawn of the third millennium, and also to sweep away all forms of discrimination.

9. For many people in many countries, the mere fact of being different was grounds for exclusion, the most striking example being the field of justice, which was administered differently according to a person's colour, condition and origin. In such countries, there was a two-track system of justice: one system for the rich, the Whites and the invaders, another system for the poor, the Blacks and the indigenous inhabitants. Under such a system, justice could not be fair, justice could not even be just.

10. Turning to the situation of migrant workers, he said that the difficulties they and their families encountered began in their countries of origin, where de jure and de facto obstacles were imposed on their right to leave their own country and to return to it. In the host countries, however, they faced a truly unendurable agony. They were herded like cattle into frontier police premises, where they were sometimes subjected to inhuman and degrading treatment, in full view of national and international institutions. Immigrants were frequently to be seen emerging from those premises bearing the marks of torture and of the chains they had worn, reminiscent of the black slave trade. Those frontier police were generally outside State control. In the past, the Sub-Commission had called for their regulation by the United Nations or any other competent international agency.

11. Needless to say, the victims were always black men and their families. In the slavery-like practices to which they resorted, frontier police stations resembled concentration camps. Migrant workers left those premises with profound physical and psychic sequelae. Host countries systematically ignored the right of habeas corpus: migrant workers were deprived both of their liberty and also of any protection of their person.

12. Once their ordeal at the hands of frontier police was over, they were faced with racism in their daily lives. They had difficulty in finding secure and hygienic housing, and were exposed to diseases, poverty and hunger. If the laws of the host country permitted them to do so, they then went in search of work; but found only low-grade and poorly paid employment, and were the last to be recruited and the first to be dismissed in times of recession. Meanwhile they were subjected to police harassment, culminating in their expulsion in circumstances again reminiscent of the transportation of animals and the slave trade. Many of them lost their lives in the process, or were simply murdered in cold blood by police who enjoyed impunity, sometimes with the complicity of the host State and the international community. If they took sanctuary, even in a place of worship, its doors were broken down, and their place of refuge was sometimes burned to the ground. Women and children were the victims of twofold discrimination.

13. He had recently been asked whether black people were becoming racists. That was indeed the case: in the circumstances a backlash was inevitable - one more dangerous, more difficult to pin down, more difficult to control, one which would have adverse economic consequences, and which constituted a threat to world peace.

14. Mr. KHALIFA said that racism was so serious an issue that it was absurd to attempt to tackle it in 10 or 15 minutes. Members of the Sub-Commission, their predecessors and their collaborators had worked on the subject for 50 years, producing statements, reports, and in some cases even books on the question. Some of them were unquestionably authorities on the matter. Yet the end result of those endeavours was simply that racism was on the rise. Nor could the Sub-Commission claim even to be on the way towards finding a solution to the problem. He had personally made some 29 statements on the issue over the years, but all to no avail. However, that did not necessarily mean that the Sub-Commission was to blame; for racism might well be part and parcel of human nature, and a phenomenon that was there to stay. As long as there was an "I" and an "other", that otherness would give life to racism.

15. That might very well be so. But one question remained: who was to be held responsible for the constant increase in racism? The Sub-Commission must persist in its endeavours to alleviate the pain of humanity, which was sometimes a self-inflicted pain.

16. If the Sub-Commission had ventured to call terrorism "the scourge of our time", racism must surely be acknowledged to be the scourge of <u>all</u> time. It was even safe to assume that racism was the root of all evil. One could not even dismiss the possibility that a very close connection existed between the recent resurgence of racism and the increased incidence of terrorist acts. One need only think of the incidents that had taken place in Somalia a year or so previously, at the hands of United Nations forces who supposedly reflected the conscience of the world community. Those incidents had undoubtedly had very strong racial overtones.

17. A tentative analysis suggested that ideology had temporarily lost its edge since the collapse of communism and the landslide victory of capitalism. But since it seemed that human existence depended on conflict, another source of conflict had had to be sought. Victorious capitalism had been expected to

bring with it a juster world economic order. Instead, it had ushered in a new order of greed in which a "winner takes all" philosophy prevailed, and had brought together the strong and the weak in a long embrace that might end in a kiss of death. That new order had been baptized "globalization".

18. He did not intend to discuss globalization in detail. Nonetheless, globalization was one big global lie. Why? Because economies did not operate in a vacuum, but in the context of a diversity of cultures that belied the postulate of the "global village".

19. In an article published in 1993, Professor Samuel Huntington had suggested that ideological conflict would be replaced by cultural conflict. While that theory was broadly acceptable, economic issues should not be overlooked, as culture and the economy were very closely intertwined. A world of cultural divisions was thus emerging, together with a world in which economic violence prevailed, so that there was a confrontation between the superiority of the successful and the frustration of the unsuccessful - fertile ground for the growth of racism. One need only note the explosion of xenophobic feeling and actions, and the ferocity with which migrant workers, and even ordinary travellers from other cultures, were rejected.

20. Professor Huntington further considered that following the cold war the clash of civilizations would be between the Christian West and the rest of the world and that there would be no ultimate global civilization. It was a convincing view, given the unjust economic order which denied all but a few the benefits of growth and development. Confucian China had once been the most advanced country. The Islamic empire in Baghdad, Seville and Granada had been a light of rationalism and science while Europe had still been in the dark. The leading countries during the current Christian era would make the same mistakes as others had done in the past. Even in the United States of America, where heroic war had been waged against slavery and discrimination, racism was on the increase and the confrontation between the haves and the have-nots was easily recognized. President Clinton had referred to the divide of race as America's "constant curse" and public opinion polls showed that educated African-Americans, in particular, believed that Blacks and Whites would never learn to get along. Racism was embedded in hearts and minds and could not be easily uprooted, whether by persuasion, education, legislation or force. The failure to realize that strength, ingenuity, achievement and survival came through diversity rather than through the so-called purity of race was indeed a curse. American pop culture, for example, had such wide appeal precisely because it emanated from the juxtaposition of many cultures, which gave it a rich cosmopolitan character.

21. The West's economic interests ensured its continuing engagement in other cultures, but the danger was that cultural discomfort levels would come to dictate foreign policy and that racial feelings would hold too much sway. Africa and the Islamic world were particularly vulnerable to such sentiments. Not only was racialism unjust, and soul-destroying, but by affecting political attitudes and decisions it could be disastrous for the future of mankind.

22. Lastly, no discussion of racialism could ignore South Africa, where de facto apartheid continued to exist. Whites had lost their political

monopoly, but the big five conglomerates, under white management, representing 75 per cent of the market capitalization of the Johannesburg Stock Exchange, remained in control of the economy, and the Government was dragging its feet on revising the antitrust laws for fear of offending them. It was a matter of deep concern that there had been no improvement in the lot of the general population, who continued to suffer from abject poverty, unemployment, ethnic rivalry and pervasive criminality. The black elite had been sucked into the white machine, distancing themselves from the people and revelling in their new status. It was a frightening development. In view of the revelations of evil that had emerged from the Truth and Reconciliation Commission, the Sub-Commission could feel some satisfaction at having contributed with courage to the struggle against apartheid. It should not lose interest; the struggle continued.

23. Mr. EIDE noted two related phenomena that challenged the very foundation of human rights and should therefore be taken very seriously. One was the language, ideology and actions of racism and xenophobia - a problem of long standing - and the other was the language, symbols and actions of ethno-nationalism, which sought to create ethnically pure States by exclusion, enforced assimilation or violent secession. The two phenomena had an element in common: the dogmatic assertion of the desirability of ethnically or culturally homogeneous societies, which implied a rejection of those who were different.

24. Acts of violence against migrants were unfortunately on the increase, usually perpetrated by young men suffering from unemployment or other forms of insecurity but often exploited by cynical political entrepreneurs for their own purposes of political gain. Such violence had often been seen as blind or irrational. Research had shown, however, that it was often initiated or aggravated by "conflict entrepreneurs", who used feelings of demographic stress and personal insecurity to further their own greed or quest for power. Such entrepreneurs could be found among both majority and minority groups, sometimes as leaders of nationalist parties or of violent secessionist movements. They also existed in the academic world: the theories of Professor Huntington - which he could not accept - might turn out to be self-fulfilling prophecies.

25. For maximum effect, the Sub-Commission should seek better coordination with other United Nations bodies and with regional agencies. It should reflect on how best it could serve the needs of the High Commissioner for Human Rights through its analyses and recommendations. It should also draw lessons from such bodies as the International Labour Organization (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Office of the United Nations High Commissioner for Refugees in the field of prevention of discrimination and protection of minorities.

26. Of particular importance was contact with the Committee on the Elimination of Racial Discrimination (CERD), with which the Sub-Commission should continue its dialogue on their joint and separate roles during the Third Decade to Combat Racism and Racial Discrimination and in the preparatory work for the world conference against racism and racial discrimination, xenophobia and related intolerance. The letter from the Chairman of CERD (E/CN.4/Sub.2/1997/31) contained useful suggestions. Some of the subjects

studied by CERD, while important in themselves, should best be discussed under other agenda items. Others were directly related to the work of the Sub-Commission, which should respond to the suggestions made. One such was that the advisability of referring to definitions of "race" and "racism" in international texts should be studied. That proposal had been extensively examined the previous day by Ms. McDougall, who had explained why the word "racism" would have to be retained. It might, however, be necessary to go deeper into the semantics of the word and to compare related concepts such as "descent" or "national or ethnic origin". The notion of "race", as used from about 1750 to 1950, had clearly been based on the dangerous scientific fallacy that there existed separate human races. That was now known to be a misconception, often crudely exploited, but it would still be useful to carry out a semantic study of that and related words. Such a study could also take account of the distinction between the prevention of discrimination, on the one hand, and the protection of minorities, on the other. The distinction between "race" and "ethnic" was that "race" was generally used - often negatively - to describe a hierarchy, in which some people were alleged to be better than others; that related to the prevention of discrimination. The words "ethnic" or "national", on the other hand, did not presuppose any such hierarchy but emphasized the different identities of groups which wanted to preserve their identities; that related to the protection of minorities.

27. The second proposal from CERD was to elaborate the implications of article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. In that context the remarks by the International Council of Jewish Women on the need to prevent the Internet being used for purposes of racial hatred should also be taken into account. Another proposal was to examine issues relating to affirmative action, covered by articles 1.4 and 2.2 of the Convention. Questions to be answered included what circumstances warranted affirmative action, what measures were justified for such purposes and when affirmative action should be brought to an end. Lastly, CERD suggested examining the application of article 7 of the Convention to the freedom of the press, analysing the contradictions between the freedom of the press and the rights of minorities - or of any ethnic group - to be protected from "media messages" which could have racist implications. It was also essential to remain in contact with the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance. Close attention should be paid to his proposals.

28. In the development of programmes for human rights education, account should be taken of the requirements contained in article 7 of the Convention, under which States undertook to take measures in the fields of teaching, education, culture and information to combat prejudices leading to racial discrimination and to promote understanding, tolerance and friendship. It was highly desirable to study the implementation of that commitment and to evaluate the effectiveness of measures adopted, so that international guidelines for appropriate programmes could be developed. UNESCO should also be involved in the task. A comprehensive programme of human rights education should be developed, beginning in the earliest years at school. The expertise of the United Nations, CERD and the Sub-Commission should be called upon for

that purpose. He welcomed the fact that two members of the Sub-Commission were to meet two members of CERD to discuss the joint working paper on article 7 of the Convention.

29. He recalled that the Commission and the Economic and Social Council had endorsed the Sub-Commission's proposal that the General Assembly should authorize a world conference against racism and racial discrimination, xenophobia and related intolerance. He agreed with Ms. McDougall that the Sub-Commission should be involved in shaping the content of the conference's work, in close collaboration with CERD. The proposals by CERD were therefore very much to be welcomed.

30. Mr. ALI KHAN said that he was particularly concerned by the situation of migrant workers and members of their families. As had been agreed at a meeting of the Working Group on Minorities, the Sub-Commission should tackle the question of the rights of migrant workers in different parts of the world. The solution of the problem depended on the enactment of suitable legislation in the field of citizenship. Mrs. Warzazi had put forward an important suggestion regarding the concept of dual nationality. What such workers required above all, however, was for benefits to be conferred on them. In the eastern parts of India, for example, near the borders with Myanmar and Bangladesh, there were migrant families that had been established for three generations yet still enjoyed no rights or benefits. He therefore believed that, as had previously been suggested, a right of domicile should be conferred on such people, if it was not acceptable to allow them full citizenship. In English jurisprudence "domicile of choice" and "domicile of origin" were well-established concepts. He could see no insuperable legal problem in conferring the right to a "domicile of choice" for a person who was permanently or semi-permanently resident in a foreign country. It might not be easy to reach agreement on dual nationality in the current climate of world public opinion, but it was terrible that such hapless people were denied any rights at all, not even a domicile of choice.

31. Mr. Park took the Chair.

32. Mr. WADLOW (Association for World Education) was concerned about the independence of special rapporteurs and their ability to propose remedial actions in fulfilling their mandates. Any pressure, political or otherwise, limiting their independent evaluation of an issue struck at the heart of the whole system of protection enshrined in the International Bill of Human Rights. It was a matter of vital importance. If, in preparing for the new world conference against racism and racial discrimination, xenophobia and related intolerance, limitations were accepted, the effect would be to make hollow a structure that was only beginning to have the respect it needed to withstand the currents of worldwide hate. Already in 1994 the Permanent Representative of the Sudan had requested that references to human rights in his country should be withdrawn from the report to the Commission of the Special Rapporteur on the situation of human rights in the Sudan (E/CN.4/1994/48), in which he had indicated inconsistencies between the international human rights Conventions to which Sudan was a party and some provisions of its Criminal Act of 1991. The Permanent Representative had claimed that the report "contained abusive, inconsiderate, blasphemous and

offensive remarks about the Islamic faith". On that occasion, however, the Commission in its resolution 1994/79 had accepted the Special Rapporteur's recommendations and had called on the Government of the Sudan to comply with international human rights instruments. That had been reiterated in all subsequent Commission resolutions, including resolution 1997/59. The request by the Government of the Sudan to introduce modifications, including deletions of paragraphs in the report, had been unanimously rejected. Another accusation of "blasphemy" had, however, surfaced. At the final meeting of the fifty-third session of the Commission a decision had been taken to request "corrective action" in the report of the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance. His organization had circulated a written statement on the question (E/CN.4/Sub.2/1997/NGO/3) and the matter would be raised at the meeting of persons chairing the human rights treaty bodies in September. The effort to limit the independence of the Special Rapporteur had taken place in his absence and most of the negotiations concerning what had become decision 1997/125 had taken place in private, so that NGOs could make no contribution. In such circumstances NGO cooperation was made virtually impossible and the suspicion must be that such crucial decisions were made by the "boys in the back room".

33. The topic under attack had concerned the section of the report dealing with anti-Semitism. The accusation of blasphemy, launched by Indonesia on behalf of the Organization of the Islamic Conference and by Turkey, had been directed specifically at a quotation in the report from an annual survey on anti-Semitism worldwide, under the sub-heading "Islamist and Arab Anti-Semitism". The "offensive reference" had read: "The use of Christian and secular European anti-Semitism motifs in Muslim publications is on the rise, yet at the same time Muslim extremists are turning increasingly to their own religious sources, first and foremost the Koran, as a primary anti-Jewish source."

34. The crux of the matter was the validity or otherwise of the statement that had led to the accusations of "blasphemy". His organization had illustrated its accuracy, providing bibliographical references, in document E/CN.4/Sub.2/1997/NGO/3. It had also provided therein details of a subsequent article by an Islamist writer, Dr. Mustafa Mahmoud, published on 17 May 1997 in Al-Ahram International, which confirmed the validity of the above quotation that was considered blasphemous.

35. It was a dangerous precedent for charges of "blasphemy" to be given credence by the Commission on Human Rights. All forms of racism and discriminatory attitudes, including those transmitted by religious thought and teaching, whatever the source, must be given serious analysis.

36. Further calls for censorship had been made at the 1997 substantive session of the Economic and Social Council, in particular a demand that the sub-heading "Islamist and Arab Anti-Semitism" should be removed from the report of the Commission on Human Rights (E/CN.4/1997/71).

37. He urged the Sub-Commission to support the unanimous position adopted at a meeting in May of special rapporteurs and other persons operating under the special procedures of the Commission on Human Rights to the effect that

special rapporteurs should not be requested to amend their reports merely because certain passages were deemed offensive by a particular member State or group of member States.

38. Mr. KANE (African Commission of Health and Human Rights Promoters) deplored the recent upsurge in intolerance, xenophobia and racial discrimination vis-à-vis migrant workers, asylum-seekers and refugees. In Germany, arsonists had attacked the homes of immigrant workers and asylum-seekers. In France, immigrants without proper papers, most of them from Mali, had been returned to their countries by the military, and second-generation immigrants were increasingly ostracized. On 16 May 1997, the newspaper Le Monde had accused the Court of Conflicts of seeking to restrict foreigners' right of appeal against administrative decisions. It was to be hoped that the new Government would redeem its pledge to ease the situation.

39. The treatment of asylum-seekers under the Schengen Agreements was often in flagrant violation of the European Convention on Human Rights. Applicants for asylum could be held in camps for up to four or five years while their files were being considered.

40. In some Arab and African countries and in Israel, certain categories of immigrant worker were ostracized and in some cases their property was confiscated. The behaviour of certain Asian countries which intercepted "boat people", both asylum-seekers and immigrant applicants, was a flagrant breach of international norms and treaties.

41. The States Members of the United Nations must be urged to show greater indulgence to immigrants and refugees. The fortress attitude was particularly disturbing when it applied a single cultural reference to the entire human race and claimed to be operating on behalf of the general good.

42. Mr. VUM SON (International Peace Bureau) said that in the process of decolonization socially and economically marginalized ethnic groups had been incorporated, without their consent, in States ruled by more numerous ethnic groups. The Chin people were forced to live with linguistically, socially and culturally different peoples in Burma, India and Bangladesh. Regimes such as the State Law and Order Restoration Council (SLORC) in Burma institutionalized the forces of xenophobia. The country had been without a constitution since 1988 and every human right, including the rights of the child, had been violated. All schools were closed. Systematic campaigns of racial hatred had been conducted against the seven non-Burman ethnic minorities. No minority was represented in the Government. Christians and Muslims were viewed as ineligible for full citizenship. In the early 1990s, 300,000 Muslim Rohingyas had fled to Bangladesh from their cruel and degrading treatment at the hands of the army. Christian minorities such as the Karen, Karenni and Kachin had suffered similar treatment.

43. Following the mass pro-democracy uprising in 1988, a group of Chin students had set up an armed resistance movement against the SLORC Government, which responded with a systematic anti-Chin campaign. The military broke into people's homes, removed their property and killed their domestic animals. Soldiers were promoted if they married Chin women and further rewarded if they

converted their wives to Buddhism. There had been many cases of gang rape of Chin women by the military and random killings of Chin leaders. The independence struggle had led to an exodus of over 50,000 Chin refugees to neighbouring countries. Offers of a ceasefire by the students went unheeded.

44. Forced labour was used to build roads and military camps. When the army moved, the labourers moved with them, carrying their belongings and abandoning their fields. They were given no compensation or food. Families without able-bodied members were fined large sums. As a result, there were food shortages and cases of starvation had been reported in some areas. People sold their domestic animals and even their houses to pay taxes, which were used to build Buddhist shrines and other public buildings.

45. Burma was one of the poorest countries in the world but had one of the largest armies. Human rights violations by the military regime in its campaign for forced assimilation, Burmanization and conversion to Buddhism were intended to prolong its rule. He drew attention to the report by the Special Rapporteur on the situation of human rights in Myanmar (E/CN.4/1997/64) and expressed the view that only United Nations intervention could save its people from their xenophobic Government.

46. Mr. LACK (International Association of Jewish Lawyers and Jurists) expressed his organization's concern at the attempt to interfere with the independence and integrity of special rapporteurs in the bona fide discharge of the tasks assigned to them by the Commission on Human Rights.

47. Commission resolution 1997/73 had commended the work of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and supported the continuation of his mandate. However, his report (E/CN.4/1997/71) had been criticized just before the close of the session on the grounds that a certain passage had given offence in its reference to a sacred text to which extremist followers were said to have increasing recourse as an anti-Jewish source. In response to objections by a group of States which recognized the inviolate character of the sacred text, a decision had been taken without a vote (1997/125), in which the Commission expressed indignation at the passage and requested the Chairman to ask the Special Rapporteur, who was not present, to take corrective action. The latter had subsequently expunged it from his report.

48. Although his organization understood the sensitivities concerned, since passages from other sacred texts had been distorted for purposes of incitement to anti-Semitism, it considered that subsequent attempts to have the heading under which information was presented in the report removed on demonstrably questionable grounds undermined the Special Rapporteur's role and standing and the credibility of the rapporteur system. It endorsed the appeal made to the Sub-Commission by an earlier speaker to join those who had taken steps to defend the independence of the special rapporteurs against the unjustified attacks by an individual member State or a group of member States.

49. Ms. BROWNE (National Bar Association) said that racial discrimination was neither logical nor scientific and would continue until forthright action

was taken against it. Racial prejudice was a worldwide phenomenon and those who acted on that prejudice did so in the quest for social, economic and political power.

50. The criminal justice system in the United States of America was an example of disparity of treatment on grounds of race. Although psychological, sociological and psychiatric studies had shown that persons of African descent were not predisposed to crime, African-American males, who represented less than 15 per cent of the total population of the United States, accounted for 44 per cent of the prison population. According to the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, black women were eight times more likely than white women to go to prison for drug abuse in the United States, and Blacks, persons of Hispanic origin, Asians, Indians or Arabs were likely to receive penalties two or three times harsher than Whites. The construction industry was benefiting from the increase in prison construction and there was a profitable and growing market in stock in privatized prison corporations.

51. She urged the Sub-Commission to ensure that the technical skills, support and resources needed for the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination were made available. She also suggested that the Working Group on Minorities should be made inter-sessional and that a permanent forum on minorities should be created.

52. Her organization supported the convening of a world conference against racism and racial discrimination, xenophobia and related intolerance as a true measure of the desire to eliminate racial discrimination.

53. Ms. BROWN (World Federation of Democratic Youth) commended the report by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to the United States of America (E/CN.4/Sub.2/1993/8), in which he had recommended the revitalization of affirmative action programmes in order to reverse the negative consequences of limited access to education for students of colour. Her organization was greatly disturbed by the recent passing of Proposition 209 in the State of California, which banned affirmative action. It had immediately resulted in a decline in minority admissions to higher education. Unlike their white counterparts, the majority of racial and ethnic minorities could not afford to enter the private education system.

54. In his report on Brazil (E/CN.4/1996/72/Add.1), the Special Rapporteur had documented similar educational discrimination against Afro-Brazilians, whose illiteracy ratio was 12 per cent higher than that of white Brazilians. The cycle of poverty resulting from such discrimination affected the right of Afro-Brazilians to employment and housing.

55. Proposition 187 adopted by the State of California in the United States restricted basic health-care options for people of colour, thereby undermining public safety. It pandered to the desire of the business sector for cheap labour without the corresponding health care and social benefits.

56. Xenophobic and discriminatory sentiment was the motive behind increased border controls by the United States authorities. According to data from both sides of the Mexican border, some 270 Mexican immigrants were dying each year while attempting to cross the Rio Grande river. Officials were not investigating deaths, facilitating autopsies, contacting next of kin or providing death certificates. The Immigration Reform Act and Immigration Responsibility Act of 1996 were part of a growing trend towards hostile and racist treatment of immigrants.

57. Over 90 per cent of cases of the deliberate destruction of places of worship in the United States of America were directed against the African-American and Jewish American communities. Such attacks encompassed an array of human rights violations and contributed to racial unrest.

58. Her organization supported the convening of a world conference against racism and racial discrimination, xenophobia and related intolerance and recommended continued funding for the Special Rapporteur's mandate. It requested the Sub-Commission to schedule the meetings of the Working Group on Minorities in such a way as to increase participation by NGOs. Lastly, it recommended that the Sub-Commission should adopt a resolution establishing a cohesive programme to address racism through the combined efforts of the Working Group on Minorities, the sessional Working Group on the Administration of Justice and the Question of Compensation, the Committee on the Elimination of Racial Discrimination and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

59. Ms. BRIDEL (United Nations International Research and Training Institute for the Advancement of Women) said that the subject of women's migration had been neglected for a variety of reasons, including the emphasis on the human capital model in migration theory, an underestimation of women's economic activities and participation in the labour force, and gender bias in social science research. Most importantly, inadequacies in existing data on women's migration and the way in which such data were presented distorted the conclusions of substantive studies. There had been a tendency to classify women as dependants with a primarily non-economic role, although the numbers of male and female migrants were about the same.

60. Better documentation on women's migration would combat erroneous stereotypes about the gender composition of various types of migrant. It was recommended that official publications on international migration should cross-classify data by sex, as knowledge of the determinants and consequences of international migration, and how they varied for men and women, would allow more appropriate policies to be formulated in both countries of origin and destination.

61. In assessing the data needs for analytical purposes, it had to be borne in mind that the characteristics of at least two nation States, and especially of their laws and regulations on migration, had a strong influence on the process of international migration. In order to better analyse and measure international migration, it was essential to distinguish different types of migration flows and to assess women's participation in them, which would usually require changes in the regulatory system used to control migration.

The consequences of migration for women and their families were often shaped by the conditions under which they were admitted to a receiving country. Moreover, laws and regulations in both countries of origin and destination contributed to the determinants of the international migration of women. In the case of female migrants, concerns about protection from abuse had led some countries of origin to impose additional restrictions on their emigration, thus influencing the volume and selectivity of female international migration.

62. Mr. REISCHLE (International Labour Office (ILO)) said that the existence of the Migration for Employment Convention (Revised) of 1949 and the Migrant Workers (Supplementary Provisions) Convention of 1975 as well as other instruments did not mean that migrant workers and their families were adequately protected at the international, or even at the national level, especially against discrimination. The application of the two aforementioned ILO Conventions, as well as any obstacles to their ratification, would be the subject of a general survey by the ILO Committee of Experts on the Application of Conventions and Recommendations in 1998.

63. He outlined the objectives and four main activities of the ILO project, "Combating discrimination against migrant workers and ethnic minorities in the world of work", which was intended to inform all those with an interest in eliminating such discrimination on how legislative and training measures could be rendered more effective. The first activity of the project was to accurately document the level of unlawful discrimination occurring with regard to access to employment. "Practice tests", which monitored the progress of equally qualified migrants or members of an ethnic minority and nationals of the country posing as genuine candidates for the same job vacancy, had produced evidence of unexpectedly high proportions of direct and indirect discriminatory practices.

64. The second and third activities of the project aimed to show how best Governments and social partners could remedy the situation. Findings so far indicated that most States lacked a sufficient legislative basis to combat effectively discrimination against migrant workers and workers from ethnic minorities. The stringent enforcement of comprehensive civil legislation, together with voluntary training and information provision, was of fundamental importance.

65. The fourth activity would bring together the findings of the first three activities in national and international seminars scheduled for 1997 and 1998, and publish those findings together with the conclusions of the seminars. Further details concerning the project could be found in document E/CN.4/Sub.2/1997/25.

66. Mr. CHOWDHURY (Observer for Bangladesh) welcomed the Sub-Commission's timely decision to focus on the rights of migrant workers, as that decision also reflected its concern at the burgeoning manifestations of racism, xenophobia and other forms of discrimination. The issue of migrants was deserving of the Sub-Commission's special interest. There were only limited legal safeguards for legal migrants and hardly any for those in irregular situations. Hostility bred of prejudice created acute problems which were compounded when migrants were made into scapegoats for the ills of the whole society.

67. The protection of migrants' rights was also handicapped by the lack of a widely ratified international human rights instrument, the lack of a formal monitoring and investigative body, the lack of an international agency to promote protection of the basic human rights of migrants, and the lack of a broadly based NGO advocacy movement. The Programme of Action of the International Conference on Population and Development held in Cairo had provided a starting point for a migrants' regime, but attention to the protection of the basic human rights of migrants remained ambivalent in international forums.

68. The concepts of globalization and liberalization of the international economy had become translated into widely embraced contemporary values, but had to be approached with caution. Globalization was not merely a matter of opening markets but also of opening minds and hearts to diversity. The emergence of a genuine borderless market would continue to be impeded as long as a principal factor of production, labour, was excluded from the scheme. The liberalization of trade and services and the management of international migration could be brought together in a single framework, so that trafficking in irregular migrants was replaced by productive trade in goods and services, that was certainly possible if the outcome of the Uruguay Round was effectively implemented. The General Agreement on Trade in Services had opened up new opportunities both for efficiency gains and achieving better management of international migration.

69. In view of the drift and ambiguity in the international community on migrants' rights, Bangladesh welcomed the establishment of a working group on migrants and human rights. It hoped that the expertise of the Sub-Commission would provide useful inputs into its work. It also welcomed positive suggestions made by members of the Sub-Commission during the debate on the current agenda item. The foreigner must no longer be feared; rather, the foreigner's contribution to enriching the lives of all through his labours should be appreciated.

70. Mr. HERNÁNDEZ (Observer for Mexico) expressed strong support for the convening of a third world conference to combat racism and racial discrimination, xenophobia and related intolerance. The issue of international migration had become a major challenge to the international community: the human rights of migrants should be of special concern to the Sub-Commission as they formed a particularly vulnerable group, often rejected by host societies and increasingly subject to alarming human rights violations.

71. Mexico was a country of origin, destination and transit for large numbers of migrants, and it attached great importance to international cooperation, especially with its neighbours, with whom it maintained a process of dialogue, consultation and negotiation. His Government had taken the initiative to organize the first Regional Conference on Migration in 1996, in which Canada, the United States of America, the countries of Central America and Mexico had participated, and which had been followed by a second conference in Panama in 1997. Participants had recognized the complex links between migratory flows and development, and had also agreed on the need to take joint action to alleviate the situation of migrants and promote the respect of their fundamental rights.

72. In Mexico, the National Human Rights Commission and the migratory authorities had set up several programmes to orient and protect migrant workers arriving along its southern borders, and had supplied them all, regardless of their legal status, with information on their human rights and how to protect themselves from violations of those rights. In order to protect Mexican nationals emigrating northwards, the Government of Mexico had set up one of the largest networks of consulates in the world and had established mechanisms for consultation with the Governments of the United States and Canada to address the problems caused by migratory flows. Furthermore, the Mexican Congress had recently passed a bill allowing Mexican migrants to acquire a second nationality, thereby ensuring that they were not unprotected in the countries where they settled.

73. The Government of Mexico was also active in promoting a policy of international cooperation to protect migrants. It was very interested in the proposal made at the recent United Nations Seminar on Immigration, Racism and Racial Discrimination that the persons chairing the human rights treaty bodies, should at their forthcoming meeting, consider whether there were bases for incorporating into the process of monitoring compliance with those instruments information on discriminatory practices obtained by countries from their consulates. Mexico believed that, in view of the increasing vulnerability of migrants all the United Nations mechanisms for the promotion and protection of human rights should pay particular attention to the human rights situation of migrants.

74. His Government continued to promote the early entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. His delegation was confident that the working group set up pursuant to Commission resolution 1997/15 would receive valuable input from the expert members of the Sub-Commission. It urged NGOs to make a positive contribution to the work of the working group. It also urged those regional groups which had not yet put forward a representative to the Chairman of the Commission on Human Rights to do so as soon as possible, to enable consultations with the five experts of the working group to get under way as soon as possible

75. Mr. Bengoa resumed the Chair.

76. Mr. MAMDOUHI (Observer for the Islamic Republic of Iran) noted that there had been an upsurge in xenophobia, racism, neo-Nazi extremism and racial discrimination throughout the world in recent years. As the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had noted, racist propaganda and incitement to ethnic and racial hatred were mounting.

77. In some European countries, thousands of people were being deprived of their basic rights because of their religion, race or ethnicity. There was growing discrimination against Muslim minorities, which had become the preferred target of racist groups. Many European States, while advocating the right to freedom of movement, were closing their borders and expelling large numbers of immigrants. Migrant workers, especially in Europe, were increasingly affected by restrictive government policies, prolonged detention and expulsion.

78. In some instances the media and some political parties had also been involved in the resurgence of racism, xenophobia and intolerance.

79. His delegation believed that the Sub-Commission could make a constructive contribution to the world conference against racism and racial discrimination, xenophobia and related intolerance by acting as a think-tank for discussion on the issue.

80. His delegation also believed that the international community, through its various mechanisms, including the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, must address the issue of the use of new technologies such as the Internet to disseminate racist and xenophobic propaganda with a view to encouraging the proper and peaceful use of those technologies.

81. Finally, it invited the Special Rapporteur to pay greater attention in his future reports to the increasing racism and discrimination that were being directed at Muslim minorities.

82. Mr. EGÜZ (Observer for Turkey) said that racism was the most serious social and political disease of modern times. He drew attention to the comments of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on the unchecked proliferation of racist messages on the Internet and the alarming increase in xenophobia, which was being met with indifference by some of the world's most democratic peoples, who were supposedly devoted to civilized values.

83. Almost 3 million Turkish citizens lived outside their home country as migrant workers, some 80 per cent of whom opted to become integrated in their host country. They had constantly found themselves the targets of racism and racial discrimination, and had been harassed, insulted, beaten, killed and even burned to death in their houses. The item under consideration was therefore of special importance for his country.

84. The statement by the representative of the International Labour Office at the fifty-third session of the Commission on Human Rights acknowledging the problems faced by migrant workers had been most revealing. He had referred to research undertaken by ILO which had substantiated claims of widespread and pervasive discrimination against migrants and provided concrete data on day-to-day discrimination, particularly in the workplace. It had been found that such discrimination, which was mostly of an indirect nature, impeded the integration of migrants into the host society's labour market and thus into the host society as a whole.

85. His delegation believed that the root cause of the problems facing migrant workers was that they were still considered as "foreigners" in their respective host countries. Those countries should pursue policies of integration, not assimilation, in order to remedy the situation of migrant workers.

86. Mr. AMAT FORES (Observer for Cuba) said that, at the end of a century of tremendous scientific and technological progress that bore witness to human intelligence, it might appear absurd that certain archaic concepts should be

blocking the progress of mankind towards a better and peaceful world. Yet the resurgence of racism, racial discrimination and xenophobia, coupled with the emergence in some developed countries of extreme right-wing fascist-type political parties, was doing just that. The dismantling of apartheid had not brought an end to racism and racial discrimination.

87. Intolerance of migrant workers in developed countries and the denial of their fundamental rights was a new manifestation of racism and racial discrimination. The same countries revealed their double standards when, despite their treatment of migrants, they set themselves up as defenders of human rights and presumed to pass judgement on developing countries.

88. A disturbing new development was the use of communication technology to disseminate ideas based on hatred of certain groups and to encourage feelings of superiority in a group or a State. All States had a duty to put an end to that practice, which could not be justified by evoking the right to freedom of expression, since the exercise of individual rights had to be balanced against respect for the higher interests of society.

89. He urged States parties to the International Convention on the Elimination of All Forms of Racial Discrimination to fulfil their obligations and implement it at the national level. He also said that the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination, which had been impeded by lack of resources and the indifference of a group of member States, deserved the fullest support of all true defenders of human rights. Finally, he expressed his full support for the decision of the Commission on Human Rights, endorsed by the Economic and Social Council, to recommend to the General Assembly the convening of a world conference to combat racism and racial discrimination, xenophobia and related intolerance before the end of the century.

The meeting rose at 1.10 p.m.